

**UNITED STATES BANKRUPTCY COURT  
DISTRICT OF DELAWARE**

In re:  ACANDS, INC.,  Debtor.	Case No. 02-12687 (KG)  Chapter 11
In re:  ARMSTRONG WORLD INDUSTRIES, INC., <i>et al.</i> ,  Debtors.	Case No. 00-04471 (KG)  Chapter 11  Jointly Administered
In re:  COMBUSTION ENGINEERING, INC.,  Debtor.	Case No. 03-10495 (KG)  Chapter 11
In re:  THE FLINTKOTE COMPANY, <i>et al.</i> ,  Debtors.	Case No. 04-11300 (KG)  Chapter 11  Jointly Administered
In re:  KAISER ALUMINUM CORPORATION, <i>et al.</i> ,  Debtors.	Case No. 02-10429 (KG)  Chapter 11  Jointly Administered

In re:  OWENS CORNING, <i>et al.</i> ,  Debtors.	Case No. 00-03837 (KG)  Chapter 11  Jointly Administered
In re:  UNITED STATES MINERAL PRODUCTS COMPANY,  Debtor.	Case No. 01-02471 (KG)  Chapter 11
In re:  USG CORPORATION, <i>et al.</i> ,  Debtors.	Case No. 01-02094 (KG)  Chapter 11  Jointly Administered
In re:  W.R. GRACE & CO., <i>et al.</i> ,  Debtors.	Case No. 01-01139 (KG)  Chapter 11  Jointly Administered

### **NOTICE OF SUPPLEMENTAL AUTHORITY**

Honeywell International Inc. (“Honeywell”), by and through its undersigned counsel, hereby submits this Notice of Supplemental Authority (this “Notice”) related to the *Motion of Honeywell International Inc. for Access to Rule 2019 Exhibits* filed in each above-captioned case.<sup>1</sup> Honeywell submits this Notice to advise the Court of two recent decisions in which Judge Silverstein and Judge Sontchi of the United States Bankruptcy Court for the District of Delaware

<sup>1</sup> Case No. 02-12687, Docket No. 3751; Case No. 00-4471, Docket No. 10813; Case No. 03-10495, Docket No. 3502; Case No. 04-11300, Docket No. 9338; Case No. 02-10429, Docket No. 10351; Case No. 00-3837, Docket No. 21106; Case No. 01-2471, Docket No. 4094; Case No. 01-2094, Docket No. 12711; Case No. 01-1139, Docket No. 32718.

denied a debtor's motion to redact certain creditor information pursuant to Bankruptcy Code section 107(c).

In In re Delivery Agent, Inc., et al., Case No. 16-12051 (LSS) [Docket No. 5], the debtors filed a motion to redact the addresses of individual creditors and interest holders from their creditor matrix, asserting that such information could be used to perpetrate identity theft. The United States Trustee for the District of Delaware (the "UST") objected to the request and argued that the debtors failed to satisfy their burden of demonstrating an undue risk of identity theft, as required under Bankruptcy Code section 107(c). Id. at Docket No. 139. At the hearing on the motion to redact, the UST argued:

Where the debtors have not identified any particular or specific or concrete risk or occurrence of identity theft, the risk has not been shown to be undue. If it were, then any risk of identity theft could be undue. The information would be redactable in every case.

Hr'g Tr. 19:12–16.

Judge Silverstein agreed with the UST, stating:

I'm going to deny the relief. Looking at the statute, it does require that I find cause, that disclosure of the information would create an undue risk of identity theft, and I don't think I've – I have not had any type of evidence to suggest that there is an undue risk of identity theft.

Rather, there's just a general assertion that there is identity theft, unfortunately, in this day and age, and the debtors, understandably, would like to avoid even the slightest risk that filing information in this court could lead to identity theft. And while I certainly appreciate that sentiment, given that there has been an objection by the Office of the United States Trustee and given that this could lead to a trend, which I'm not sure I'm prepared to endorse at this point, I'm going to deny the request.

Hr'g Tr. 21:3–17. A copy of the hearing transcript is attached hereto as Exhibit A for this Court's reference.

Judge Sontchi similarly denied a debtor's motion to file under seal certain portions of its creditor matrix, schedules and statements, and related documents containing employee information in In re Maxus Energy Corp., et al., Case No. 16-11501 (CSS).

In the motion to seal, the debtor argued that public disclosure of such information would expose individuals to an undue risk of identity theft. Id. at Docket No. 308, p. 3–5. Specifically, the debtor cited instances in which an individual had previously misused the same type of information to file fraudulent change of address forms with the Clerk of this Court and in other courts across the country. Id. at p. 5. The debtor asserted that, as a result, there was a threat of identity theft sufficient to warrant protection of the information under Bankruptcy Code section 107(c).

The UST objected to the Motion, arguing that the public's right of access should not be limited absent compelling evidence that an exception under Bankruptcy Code section 107 applies. Id. at Docket No. 357. Specifically, the UST argued that the generic threat of identity theft is insufficient to satisfy the section 107(c) exception and that if the evidence presented by the debtor was sufficient to warrant protection, then it would be sufficient to do so in every single bankruptcy case filed in Delaware. Hr'g Tr. 17:5–9.

On October 19, 2016, Judge Sontchi denied the motion to seal, stating to debtor's counsel:

Well, while I'm aware of that situation, not to put too fine a point on it, I don't actually have any evidence that that's occurring. I don't have any evidence to back up the statements that you've made.

...

If you've got evidence now's the time. It's a contested motion.

Hr'g Tr. 15:9–17. A copy of the hearing transcript is attached hereto as Exhibit B for this Court's reference.

Dated: November 1, 2016  
Wilmington, Delaware

POLSINELLI PC

/s/ Justin Edelson

Justin Edelson (Del. Bar No. 5002)  
222 Delaware Avenue, Suite 1101  
Wilmington, Delaware 19801  
Telephone: (302) 252-0920  
Facsimile: (302) 252-0921

-AND-

MCDERMOTT WILL & EMERY LLP  
Peter John Sacripanti (*admitted pro hac vice*)  
John J. Calandra (*admitted pro hac vice*)  
Darren Azman (*admitted pro hac vice*)  
340 Madison Avenue  
New York, New York 10173-1922  
Telephone: (212) 547-5400  
Facsimile: (212) 547-5444

*Attorneys for Honeywell International Inc.*